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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Foster, Robert A.  
Assignee: Financial Systems Technology Pty. Ltd.  
Title: Data Processing System For Complex Pricing And Transactional Analysis  
Application No.: 09/535,573 Filing Date: March 27, 2000  
Examiner: Cuong H. Nguyen Group Art Unit: 2165  
Docket No.: M-4540-1C US

San Jose, California  
September 27, 2002

DIRECTOR OF PATENTS AND TRADEMARKS  
Washington, D. C. 20231

ATTENTION: Refund Section, Accounting Division  
Office of Finance

**REQUEST FOR REFUND**

Sir:

Applicant respectfully requests a refund in the amount of \$1,960.00 that was erroneously charged to Deposit Account No. 19-2386 on April 19, 2002. A copy of the Monthly Statement of Deposit Account is enclosed. This charge was for a five-month extension of time fees. Applicant responded on April 9, 2002 to an Advisory Action mailed February 22, 2002 which resets the time to respond to the August 22, 2001 Office Action. Hence, no extension of time fees was due at the time Applicant responded to the outstanding Office Action and Advisory Action.

Applicant enclose a copy of the following documents as proof for refund:

1. Office Action dated August 22, 2001;

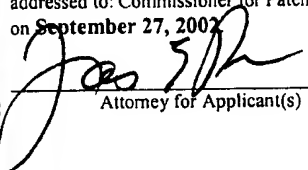
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SUITE 700  
SAN JOSE, CA 95110  
(408) 453-9200  
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2. A facsimile Interview Summary dated November 21, 2001;
3. Advisory Action dated February 22, 2002 which resets time to respond to the August 22, 2001 Office Action; and
4. Transmittal Letter and Response to Office Action, both dated April 9, 2002.

In view of the enclosed documents, Applicant requests a refund in the amount of \$1,960.00 to Deposit Account No. 19-2386 for the erroneous charge for a five-month extension of time fees.

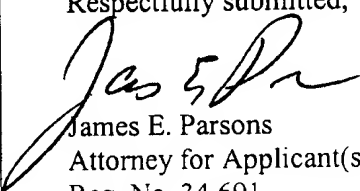
If there are any questions regarding this request, please call Applicant's attorney at (408) 453-9200. This request is submitted in duplicate.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on September 27, 2002.

  
Attorney for Applicant(s)

9/27/02  
Date of Signature

Respectfully submitted,

  
James E. Parsons  
Attorney for Applicant(s)  
Reg. No. 34,691

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Foster, Robert A.  
Assignee: Financial Systems Technology Pty. Ltd.  
Title: Data Processing System For Complex Pricing And Transactional Analysis  
Serial No.: 09/535,573 Filing Date: March 27, 2000  
Examiner: Cuong H. Nguyen Group Art Unit: 2165  
Docket No.: M-4540-1C US

San Jose, California  
April 9, 2002

BOX Non-Fee Amendment  
COMMISSIONER FOR PATENTS  
Washington, D. C. 20231

RESPONSE TO OFFICE ACTION

Dear Sir:

This responds to the Office Action mailed August 22, 2001 and the Advisory action mailed February 22, 2002.

Applicant thanks the Examiner for the Advisory Action mailed February 22, 2002, which resets the time to respond to the August 22, 2001 Office Action. Since the Examiner has altered the rejections made in the August 22, 2001 Office Action in items 4 and 6 of the Advisory Action, Applicant is treating the February 22, 2002 Advisory Action as a withdrawal of the August 22, 2001 Office Action and an issuance of a new final Office Action.

Claims 47-86 are rejected under 35 USC section 103(a) as being unpatentable over Claus et al., U.S. Patent 5,559,313, in view of Burt et al., U.S. Patent 5,682,482, further in view of Doktor, U.S. Patent 5,604,899, in view of Rothstein, U.S. Patent 5,636,117, in view

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of Claus et al., U.S. Patent 5,559,313, and further in view of Moore et al., U.S. Patent 5,630,127, further in view of the Official Notice. Applicant respectfully traverses.

As Applicant has pointed out, Burt et al. disclose "operational support systems" which includes a plurality of support systems 14, one of which is a financial transaction system 32. Each of the support systems performs specific tasks. (See generally, col. 4, line 65, to col. 5, line 10.) For example, financial transaction system 32 is a support system that handles "financial tasks including charging and booking functions related to services that are provided by the network 10" (col. 5, lines 1-5). Communication among support systems 14 is through an operations gateway 50 which "responds to a predetermined protocol in taking responsibility for functions that need to be accomplished in order to support the providing of services by [a] network 10" (col. 5, lines 12-17). In other words, operations gateway 50 acts as a hub through which all communication must pass.

Financial transaction system 32 includes "a plurality of agent systems [, each] accomplish[ing] one or more of the functions initiated by an agent", col. 5, lines 55-60. Burt et al. described how an agent system accomplishes, for example, a charging function by stating "connection management agents make sure that the charging agent 244 receives the necessary specific information to rate the resources used by one or more fulfillment agents", col. 21, lines 55-59. Charging agent 244 is in the connection instance layer which "relates to basic communication transported signalling ... and communicating resources (e.g. operating systems, GUIs, network services, runtime libraries)", col. 8, lines 23-29. Burt et al do not disclose or suggest a database, contrary to Claim 47, which recites "creating a database."

In addition, Burt et al. do not disclose or suggest creating any set of related records in a database to allow pricing of a transaction. Hence, no corresponding transaction instance, "production service instant," and "billing service instance" are created for a transaction. It

Serial No. 09/535,573

follows that Burt et al. also fail to disclose "said production service instance being linked to said transaction instance by a first relation instance" and "said billing service instance being linked to said first production service instance by a second relation instance," as recited in Claim 47, as is acknowledged by the Examiner in the Office Action.

The August 22, 2001 Office Action states "Doktor obviously suggests these above steps (see "'899 Claims 1, 6-7, Figs. 4a-4b, 6b, 10 or, '482, Fig. 5, Col. 30, lines 7-16')." The February 22, 2002 Advisory Action correctly states "Doktor's reference cannot be used as prior art," but that "cited references in the Final Office Action (even not using Doktor's reference) are still obvious to reject the pending claims' limitations." Applicant respectfully disagrees. Applicant can find no teaching of Claim 47's "said production service instance being linked to said transaction instance by a first relation instance" and "said billing service instance being linked to said first production service instance by a second relation instance," in any of the references cited in the Office Action.

Since neither of Burt et al. and Claus et al. teach "creating a transaction instance corresponding to a transaction; creating a first production service instance . . . linked to said transaction instance by a first relation instance; and creating a billing service instance . . . linked to said first production service instance by a second relation instance" as recited in Claim 47, the combination of these references also fails to teach or suggest these limitations of Claim 47. Accordingly, Claim 47 is patentable over the combination of Burt et al. and Claus et al. Claims 48-67 depend from Claim 47 and are therefore allowable for at least the reasons stated for Claim 47.

Independent Claim 68 recites a database data processing system that comprises a means for creating a transaction instance, a means for creating a production service instance, and the linking between the two instances. Thus, Claim 68 is patentable over the combination

Serial No. 09/535,573

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of Burt et al. and Claus et al. Claims 69-86 depend from Claim 68 and are therefore allowable for at least the same reasons.

Claim 55 is rejected under 35 U.S.C. §103(a) as being unpatentable over Burt et al., Doktor, and Claus et al., and further in view of Rothstein (U.S. Patent No. 5,636,117). As set forth above, Claim 47 is allowable over Burt et al. and Claus et al., and Doktor cannot be used to reject Applicant's claims. Rothstein does not cure the previously described deficiencies of Burt et al. and Claus et al. Therefore, Claim 47 is patentable over Rothstein. Claim 55 depends from Claim 47 and is patentable for at least the reasons stated for Claim 47.

Claims 48-51, 58, 69-75, 78, and 83 are rejected under 35 U.S.C. §103(a) as being unpatentable over Burt et al., Doktor, and Claus et al., and further in view of Moore et al. (U.S. patent No. 5,630,127). As set forth above, Claims 47 and 68 are allowable over Burt et al. and Claus et al., and Doktor may not be used to reject Applicant's claims. Moore et al. do not cure the previously described deficiencies of Burt et al. and Claus et al. Therefore, Claims 47 and 68 are patentable over Moore et al. Claims 48-51 and 58 depend from Claim 47 and Claims 69-75, 78, and 83 depend from Claim 68, and are patentable for at least the reasons stated for Claims 47 and 68, respectively.

The August 22, 2001 Office Action states:

[t]he Official Notice is taken here that these following definitions suggested in the claims are well-known:

- an entity instance could be defined as a client instance . . .;
- an entity instance could be defined as a market segment instance . . . .

The Examiner submits that all claimed limitations are inherent/notoriously well-known as instances for pricing transactions always "link" to related objects in computer-related applications, because these claimed limitations are very broad that they are easily recognized by artisan in the art [sic] to be implemented in a computer system via software programs; cited prior art's limitations are not necessary spelled-out exactly claimed languages [sic]."

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The February 22, 2002 Advisory Action states "there should be no need for the use of 'Official Notice' in prior Office actions." Applicant respectfully submits that the Examiner has still failed to provide a reference that teaches a "client instance" and a "market segment instance."

Accordingly, Applicant requests reconsideration and withdrawal of the rejections of Claims 47-86 under 35 U.S.C. §103(a).

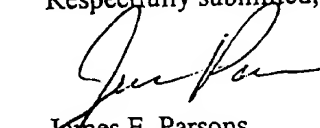
#### CONCLUSION

Applicant respectfully submits that Claims 47-86 are now in condition for allowance and respectfully requests allowance of those claims. Should the Examiner have any questions, he is invited to telephone the undersigned at 408-453-9200.

EXPRESS MAIL LABEL NO:

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Respectfully submitted,

  
James E. Parsons  
Attorney for Applicant  
Reg. No. 34,691

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Account No.	192386
Date	4-30-02
Page	15

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/535,573	03/27/00	FOSTER	R M-4540-10 US

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EXAMINER
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NGUYEN, C

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 08/22/01

AUG 27 2001

SKJERVEN, MORRILL, MACPHERSON,  
LLP.

**COPY**

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action by Attorney  
Docket System by [unclear]  
[unclear] 8/30/01

ATTORNEY: FOX/RUL  
VS 3rd Rev OFF  
ACTION: IDS DUE: 0-27-00  
ACTION: FOX/3rd DUE: 1-22-01  
ACTION: CONTRAD DUE: 1-22-01  
DOCKETED BY: JD DATE: 8-27-01  
FORM LETTER: YES/NO

Appeal 2-22-02  
Final Dead 2-22-02



# Office Action Summary

Application No.  
09/535,573

Applicant(s)  
Robert A. Foster

Examiner  
Cuong H. Nguyen

Art Unit  
2165



- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 8, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above, claim(s) 1-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-86 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_



#### DETAILED ACTION

1. This Office Action is the answer to the communication received on 06/08/2001.
2. Claims 1-86 are pending in this application; claims 1-46 were canceled.

#### *Response to Amendment*

3. Applicant's arguments received on 6/08/2001 have been fully considered but they are not persuasive with previous cited references for 35 U.S.C.103(a) rejections. The prior rejections on 35 USC 112, 2nd para., and 35 USC 101 are withdrawn due to claims amendments.

Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. In re Hiniker Co., 47 USPQ2d 1523, 1529 (Fed. Cir. 1998), the court ruled: "The name of the game is the claim."
5. Although operational characteristics of a system may be apparent from the specification, we will not read such characteristics into the claims when they cannot be clearly connected to the structure recited in the claims. See In re Self, 671 F.2d 1344, 1348, 213 USPQ 1, 5 (CCPA 1982). When given

their broadest reasonable interpretation, the claims on examination sweep in the prior art, and the prior art would have directed an artisan of ordinary skill to make the combination cited by the examiner. See also Giles Sutherland Rich, *Extend of Protection and Interpretation of Claims -- American Perspectives*, 21 Int'l Rev. Indus. Prop. & Copyright L. 497, 499 (1990); ("The US is strictly an examination country and the main purpose of the examination, to which every application is subjected, is to try to make sure that what each claim defines is patentable. To coin a phrase, the name of the game is the claim").

6. In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

7. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Burt et al. contribute a support method/system with related functions including financial transaction functions, although "creating related records to allow pricing transaction" not expressly suggested (see Burt et al. '482 Fig.5; col.30 lines 7-16). Doktor obviously modifies what Burt et al. 's missing in claimed limitation (see '899 claims 1, 6-7, Figs. 4A-B, 6B, 10). That applicable knowledge is

a motivation for a particular "pricing transaction" purpose, in the knowledge generally available to one of ordinary skill in the art.

8. On page 4, para.3, the applicant argues that Claus et al. do not remedy the deficiencies of Doktor and Burt et al., the examiner submits that "Categorization of purchased items for each transaction by a smart card" by Claus et al. had been discussed; and this subject matter is related to transaction as a whole (See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)).

9. The MicroSoft Computer Dictionary defines the meaning of a database wherein data components are linked together within that database as followings: linked list: In programming, a list of nodes or elements of a data structure connected by pointers. A singly linked list has one pointer in doubly linked list has two pointers in each node pointing to the next and previous nodes. In a circular list, the first and last nodes of the list are linked together; and link: To produce an executable program from compiled modules (programs, routines, or libraries) by merging the object code (assembly language object code, executable machine code) of the program and resolving interconnecting references (such as a library routine called by a program), or to connect two elements in a data structure by using index variables (index: A listing of keywords and associated data that point to the location of more comprehensive information, such as files and records on a disk/record keys in a database), or pointer variables (pointer: In programming and information processing, a variable that contains the memory location (address) of some data rather than data itself). The act of linking data from different parts in a database is fundamentally inherently in cited references of Burt et al., Doktor, Rothstein, Clause et al., and they are a basic knowledge in database structure that the applicant uses it to apply for a specific use (i.e. for pricing

transactions). Therefore, claim 47 is not teaching any new inventive concept according to cited references.

10. The examiner considers claim 47 as:

A computerized method for pricing transactions, comprising:

- creating a database with different instances (e.g. a transaction instance, a production service instance, a billing service instance); these instances are linked by relation instances.

The examiner submits that above reasonable interpretation of claims 47, and 68 are fundamental concepts in a widely known database structure. Therefore, cited references are obviously/inherently utilized this defined fundamental concept for their specific applications.

- Independent claim 68 recites a database data processing system that comprises a means for creating a transaction instance, a means for creating a production service instance, and the linking between the two instances. Thus it is rejected for the same rationale and references of Burt et al., Doktor, and Claus et al.

11. Applicant arguments on pg. 4 (2nd. Para.) should take In re Van Geuns into consideration:

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

12. On page 5, the applicant quotes:

"The Official Notice is taken here that these following definitions suggested in claims are well-known:

- an entity instance could be defined as a client instance.
- an entity instance could be defined as a market segment instance...

transactions). Therefore, claim 47 is not teaching any new inventive concept according to cited references.

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- Independent claim 68 recites a database data processing system that comprises a means for creating a transaction instance, a means for creating a production service instance, and the linking between the two instances. Thus it is rejected for the same rationale and references of Burt et al., Doktor, and Claus et al.

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12. On page 5, the applicant quotes:

"The Official Notice is taken here that these following definitions suggested in claims are well-known:

- an entity instance could be defined as a client instance.
- an entity instance could be defined as a market segment instance...

*Duplicate page*

Serial Number: 09/535,573  
Art Unit: 2165

13. The examiner submits that all claimed limitations are inherent/notoriously well-known as instances for pricing transactions always "link" to related objects in computer-related applications, because these claimed limitations are very broad that they are easily recognized by artisan in the art to be implemented in a computer system via software programs; cited prior art's limitations are not necessary spelled-out exactly claimed languages". As the examiner presents that the claimed subject matter is obvious with one of skills in the art, different instances in above claims may be defined according to the use of a particular instance in object-oriented programming, in relation to the class to which it belongs; in other words, instance variable is just a variable associated with an instance of a class (an object such as: client, market segment .etc.).

14. The following rejections are based on the examiner's broadest reasonable interpretation of the claims; *In re Pearson*, 181 USPQ 641 (CCPA 1974).

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. §103(a), which forms the basis for all obviousness rejections set forth in this

#### Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



15. Claims 47-86 are rejected under 35 U.S.C. §103(a) are rejected under 35 U.S.C. §103(a) as being unpatentable over Claus et al. (US Pat. 5,559,313), in view of Burt et al. (US Pat. 5,682,482), further in view of Doktor (US Pat. 5,604,899), in view of Rothstein (US Pat. 5,636,117), in view of Claus et al. (US Pat. 5,559,313), and further in view of Moore et al. (US Pat. 5,630,127), further in view of the Official Notice.

A. ~~Burt et al.~~ disclose a support method/system with related function including financial transaction functions (e.g. see '482 the abstract), comprising steps/means:

- creating a transaction instance corresponding to a financial transaction (e.g. see '482, the abstract, col.6 lines 1-14, and col.21 lines 42-59) (for claims 47, 68);

Burt et al. do not expressly show that: service instances linking to transaction instances; creating a billing service instance linked to a service instance with relation instance (for claim 47), and an entity instance can be an account instance (for claims 64, 85).

However, Doktor (US Pat. 5,604,899) obviously suggests these above steps (e.g. see '899 claims 1, 6-7, Figs. 4A-B, 6B, 10; or e.g. '482 Fig.5; col.30 lines 7-16). Doktor also suggests a step of creating a relation instance linking a transaction instance to an account instance (e.g. see '899 Figs. 4B, 6A, and 6B); and

Rothstein ('117) obviously suggests that a market segment instant is an entity instant (for claim 55) (e.g. see '117 col.2 lines 8-10, and lines 54-57, col.3 lines 9-12); and

Moore et al. ('127) obviously suggests a step of storing a transaction instance/an account instance/a client instance, a production service instance, a settlement service instance, and a billing service instance in an entity instance table, and they are inherently "link"/"relate" together as a functional data structure (e.g. see '127 Fig.4, and col.10 lines 25-55) (claims 48-51, 58, 69-75, 78, 83).

The examiner submits that a price table instance could be defined as a cost table instance (claim 60, 80), and said price is a cost; or a price table instance can be defined as a table instance, and said price is a fee (claims 61, 81), whether they are expressed in different formats. Doktor ('899) obviously suggests a step of creating a cost table instance related to a fee table instance by a relation instance (claims 62, 82); and an entity instance can be an account instance (e.g. see '899 col.30 lines 7-16).

The Official Notice is taken here that these following definitions suggested in claims are well-known:

- an entity instance could be defined as a client instance (claim 64, 66, 85);
- an entity instance could be defined as a market segment instance (claim 55).

The examiner submits that all claimed limitations are inherent/well-known as instances for pricing transactions always "link" to related objects in computer-related applications, because these claimed limitations are very broad that they are

easily recognized by artisan in the art to be implemented in a computer system via software programs; cited prior art's limitations are not necessary spelled-out exactly claimed languages. It is reasonable that various modifications and variations of the described method and system of the cited prior art would be apparent to those skilled in the art without departing from the scope and spirit of the invention. Although ~~cited prior art disclosures~~ have been described in connection with specific preferred embodiments, it should be understood that their subject matter should not be unduly limited to such specific embodiments.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to implement Doktor 's method/apparatus in a specific application of Burt et al. in financial transaction because these information are readily available at that time, and they would be an efficient organization in storing information in order to minimize retrieval time.

B. Ref. to claims 76-77/56-57: In addition, Doktor obviously suggests of storing/retrieving relation instances in relation instance table (e.g. see '899 Fig. 9.1 and claim 5); and creating a second entity instance related to first entity instance (e.g. see '899 Fig. 4A).

C. Re. to claims 79/59, 83/63, 65/84:

The rationales for rejection of claims 47/68 are incorporated herein.

Serial Number: 09/535,573  
Art Unit: 2165

Claus et al. ('313) obviously suggests a means for creating a price table instance related to a transaction instance; the examiner submits that the phrase "wherein said price table instance contains a price for said billing service instance" is obviously interpreting above under-lined key words meaning (e.g. see '313 Fig.6).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement Claus et al. idea, and Doktor 's method/apparatus in a specific application of Burt et al. in financial transaction because these information are readily available at that time, and they would be an efficient organization in storing information in order to minimize retrieval time.

D. Re. to claims 47-67: They are also rejected under 35 U.S.C. §103(a) because they are steps that using exactly means claimed in claims 68-86 with similar rationale and references.

#### **Conclusion**

16. Claims 47-86 are rejected.

17. The examiner submits that the reasons for rejection are obvious (vs. cited prior arts) with claim language. Applicant is suggested to indicate in the claims how the claims distinguish from the combining of cited prior arts. An instance, as defined, can be any object in object-oriented programming in relation to the class to which it belongs; a definition for instance variable: a variable associated with an instance of a class (an object), if a class defines a certain variable, each instance of

Serial Number: 09/535,573  
Art Unit: 2165

the class has its own copy of that variable. Hence, there is nothing novel in defining/creating again different instances that linking together in a data structure (the definition is already established for an obvious/inherent use of "instance" in cited prior art).

18. Ex parte Rubin, 5 USPQ2d 1461 (BdPatApp&Int 1987), the court said:

Knowledge in the art may have advanced such that results considered incredible are no longer per se incredible.

19. In re Heck, 216 USPQ 1038 (Fed. Cir. 1983), the court said:

"The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain."

20. A statement of purpose or intended use in the preamble of a claim must be considered if the language of a preamble is necessary to give meaning to the claim" *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315 (Fed. Cir. 1988); *In re Stencel*, 4 USPQ2d 1071 (Fed. Cir. 1987).

21. In re Susi, 169 USPQ 423 (CCPA 1971), the court said:

Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Cuong H. Nguyen, whose telephone number is (703)305-4553. The

Serial Number: 09/535,573  
Art Unit: 2165

examiner can normally be reached on Monday-Friday from 7:00 AM-3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins, can be reached on (703)308-1344.

Any response to this action should be mailed to:

Amendments

Commissioner of Patents and Trademarks  
c/o Technology Center 2100  
Washington, D.C. 20231

~~OR~~ Faxed to: (703) 308-9051/746-5572

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)305-3900.

*Cuong Nguyen*

Patent Examiner  
August 17, 2001



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
**ASSISTANT SECRETARY AND COMMISSIONER**  
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Dear Patent and Trademark Office Customer:

The Technical Support Staff of Technology Center 2100 has undertaken continuous quality improvement efforts to ensure that the accompanying correspondence meets high quality standards, and focuses on good customer service. It is important to us that you are satisfied with the services we provide.

If the contents of the attached correspondence has any clerical omissions, e.g., missing references or pages, illegible text, other problems or concerns of this nature which you wish to bring to my attention, please call or fax me as soon as possible. I will take the appropriate action to expedite the necessary corrections.

Verlene D. Green  
Head, Supervisory Legal Instruments Examiner  
Technology Center 2100  
(703) 305-4376

Fax No. (703) 308-9051 or (703) 308-9052

## **Attention: Policy on Returning Phone Calls**

A PTO-wide customer service standard is if a PTO employee being called is not available, they will return your call by the next business day, or, if you request, an alternate point of contact will be provided. Technology Center 2100 is committed to meeting this service standard. If you have called any employee in our Technology Center and have not received a return phone call within one (1) business day or have not been provided another point of contact, please contact the Technology Center at 703-306-5631. We ensure that you will receive a return phone call, from an employee with the ability to assist you, within four (4) business hours of this contact. We appreciate your help in assisting us to help you.



Attachment for PTO-948 (Rev. 03/01, or earlier)  
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.



25 Metro Drive  
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Austin, TX  
Newport Beach, CA  
San Francisco, CA

skjerven morrill  
macpherson LLP

**COPY**

Date: November 21, 2001  
To: Examiner Cuong Nguyen  
U.S. Patent and Trademark Office

746-5512  
Fax Telephone #: 703-308-9051  
Office Telephone #: 703-305-4553

From: Rachel V. Leiterman

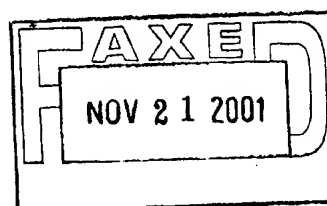
Subject: 09/535,573

Client/File: M-4540-1C US

Date Sent:	11-21-01
Time Sent:	11:45
Fax Operator:	Amy

This transmittal consists of 3 page(s), including this cover sheet.

**Message:** Please see the following Interview Summary.



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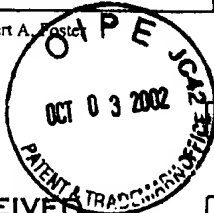
## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,573	03/27/2000	Robert A. Foster	M-4540-1C us	3655

24251 7590 02/22/2002

SKJERVEN MORRILL MACPHERSON LLP  
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SAN JOSE, CA 95110



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MAR 01 2002

SKJERVEN, MORRILL, MACPHERSON,  
LLP.

EXAMINER

NGUYEN, CUONG H

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 02/22/2002

**COPY**

Please find below and/or attached an Office communication concerning this application or proceeding.

ATTORNEY: ECK/RVL

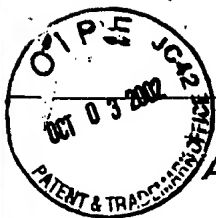
ACTION: Advisory Action 5-22-02  
ACTION: 1st Office Action 7-22-02  
ACTION: 2nd Office Action 8-22-02  
DOCKETED BY: RD DATE: 3-1-02  
FORM LETTER: YES/NO

**VERIFICATION OF DOCKETED DATES:**

Office Action by Attorney: \_\_\_\_\_

Docket System by Secretary: \_\_\_\_\_

INB: Must be completed immediately upon receipt



# Advisory Action

Application No.  
09/535,573

Applicant(s)  
Robert A. Foster

Examiner  
Cuong H. Nguyen

Art Unit  
2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Jun 8, 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- a) ☐ they raise new issues that would require further consideration and/or search. (See NOTE below);
- b) ☐ they raise the issue of new matter. (See NOTE below);
- c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

4. ☒ Applicant's reply has overcome the following rejection(s):  
Doktor's reference can not be used as prior art. The response date will expire 3 months from the mailing date of this Advisory Action.
5. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
Cited references in the Final Office action (even not using Doktor's reference) are still obvious to reject the pending claims's limitations; furthermore, there should be no need for the use of "Official Notice" in prior Office actions.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):  
Claim(s) allowed: none  
Claim(s) objected to: \_\_\_\_\_  
Claim(s) rejected: 47-86
9. ☐ The proposed drawing correction filed on \_\_\_\_\_ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
11. ☐ Other: \_\_\_\_\_

*Cuong H. Nguyen*  
CUONG H. NGUYEN  
PRIMARY EXAMINER  
ART UNIT 2165



**Attachment for PTO-948 (Rev. 03/01, or earlier)  
6/18/01**

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San Francisco, CA

skjerven morrill  
macpherson LLP

Docket No.: M-4540-1C US

April 9, 2002

Box Non-Fee Amendment  
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Washington, D.C. 20231

**COPY**

Re: Applicant: Foster, Robert A.  
Assignee: Financial Systems Technology Pty. Ltd.  
Title: Data Processing System For Complex Pricing And Transactional Analysis  
Serial No.: 09/535,573  
Examiner: Cuong H. Nguyen  
Docket No.: M-4540-1C US  
Filed: March 27, 2000  
Group Art Unit: 2165

Dear Sir:

Transmitted herewith are the following documents in the above-identified application:

- (1) Return Receipt Postcard;
- (2) This Transmittal Letter (in duplicate); and
- (3) Response to Office Action (5 pages).

☒ No additional fee is required.

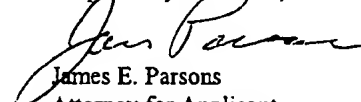
CLAIMS AS AMENDED

	Claims Remaining After Amendment		Highest No. Previously Paid For		Present Extra	Rate	Additional Fee
Total Claims	40	Minus	40	=	0	x \$18.00	\$ 0.00
Independent Claims	2	Minus	2	=	0	x \$84.00	\$ 0.00
<input type="checkbox"/> Fee of _____ for the first filing of one or more multiple dependent claims per application							\$
<input type="checkbox"/> Fee for Request for Extension of Time							\$
<b>Total additional fee for this Amendment:</b>							\$ 0.00
<input checked="" type="checkbox"/> Conditional Petition for Extension of Time: If an extension of time is required for timely filing of the enclosed document(s) after all papers filed with this transmittal have been considered, an extension of time is hereby requested.							\$
<input checked="" type="checkbox"/> Please charge our Deposit Account No. 19-2386 in the amount of							\$ 0.00
<input checked="" type="checkbox"/> Also, charge any additional fees required and credit any overpayment to our Deposit Account No. 19-2386.							\$
<b>Total:</b>							\$ 0.00

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Respectfully submitted,

  
James E. Parsons  
Attorney for Applicant  
Reg. No. 34,691

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skjerven morrill  
macpherson w

Date: November 21, 2001  
To: Examiner Cuong Nguyen  
U.S. Patent and Trademark Office

Fax Telephone #: 746-5512  
703-308-9051  
Office Telephone #: 703-305-4553

From: Rachel V. Leitterman  
Subject: 09/535,573  
Client/File: M-4540-1C US

Date Sent	11-21-01
Time Sent	11:45
Fax Operator	Handwritten signature

This transmittal consists of 3 page(s), including this cover sheet.

Message: Please see the following Interview Summary.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Foster, Robert A.  
Assignee: Financial Systems Technology Pty. Ltd.  
Title: Data Processing System For Complex Pricing And Transactional Analysis  
Serial No.: 09/535,573 Filing Date: March 27, 2000  
Examiner: C. Nguyen Group Art Unit: 2165  
Docket No.: M-4540-1C US

San Jose, California  
November 21, 2001

COMMISSIONER FOR PATENTS  
Washington, D. C. 20231

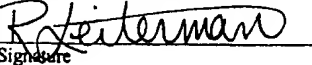
INTERVIEW SUMMARY

Dear Sir:

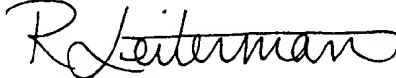
In a telephone interview on Wednesday November 14, 2001 at 9:00 AM EST, the Examiner and Applicant's undersigned Attorney discussed the Examiner's taking of Official Notice in the Office Action mailed March 8, 2001, Applicant's request for a reference supporting the Examiner's taking of Official Notice in Applicant's response to the Office Action, and the Examiner's failure to provide a reference in the Office Action mailed on August 22, 2001. As a result of the discussion, the Examiner instructed Applicant's undersigned Attorney to not respond to the Office Action mailed on August 22, 2001, and instead to await a further Office Action.

LAW OFFICES OF  
SKJERVEN MORRILL  
MACPHERSON LLP  
25 METRO DRIVE  
SUITE 700  
SAN JOSE, CA 95110  
(408) 453-9200  
FAX (408) 453-7979

Should the Examiner have any questions, he is invited to telephone the undersigned at  
408-453-9200.

Certification of Facsimile Transmission	
I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.	
 Signature	<u>11-21-2001</u> Date

Respectfully submitted,



Rachel V. Leiterman  
Attorney for Applicant(s)  
Reg. No. 46,868

LAW OFFICES OF  
SKJERVEN MORRILL  
MACPHERSON LLP

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